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Attorneys for Plaintiffs  
ORACLE AMERICA, INC. and  
ORACLE INTERNATIONAL CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC., a Delaware  
corporation and ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

Plaintiffs,

v.

NEC CORPORATION OF AMERICA, a  
Nevada corporation,

Defendant.

Case No. 21-cv-05270-CRB

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION TO:  
(1) DISMISS COUNTERCLAIMS  
PURSUANT TO RULE 12(B)(6), AND  
(2) STRIKE AFFIRMATIVE  
DEFENSES PURSUANT TO RULE  
12(F)**

Date: October 28, 2021  
Time: 10:00 a.m.  
Judge: Hon. Charles R. Breyer

1 Having considered Plaintiffs’ Motion to Dismiss Counterclaims Pursuant to Rule  
2 12(b)(6) and Strike Affirmative Defenses Pursuant to Rule 12(f) (the “Motion”), and the  
3 other papers submitted by the parties, hearing the arguments of counsel, and good cause  
4 appearing, IT IS HEREBY ORDERED that:

- 5       ▪ Plaintiffs’ Motion is GRANTED;
- 6       ▪ Defendant NEC Corporation of America’s counterclaims Nos. 1, 2, and 3 are  
7 dismissed; and
- 8       ▪ Defendant NEC Corporation of America’s affirmative defense Nos. 3 and 4  
9 are stricken.

10 IT IS SO ORDERED.

11  
12 Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Charles R. Breyer  
United States District Judge